

THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, APRIL 4, 2011 AT 3:00 P.M.

The Meeting was called to order at 3:00 p.m. Present: Council Chair Spatz; Council Members: Camp, Carroll, Cook, Emery, Hornung, Snyder; Deputy City Clerk, Teresa J. Meier.

Council Chair Spatz announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door. He asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

HORNUNG Having been appointed to read the minutes of the City Council proceedings of March 28, 2011 reported having done so, found same correct.

Seconded by Snyder & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

PUBLIC HEARING

APPLICATION OF 1644 STEELE LLC DBA THE BAR FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 87 FEET TO THE WEST OF THE LICENSED PREMISES AT 1644 P STREET ON APRIL 16, 2011, FROM 8:00 A.M. TO 2:00 A.M. - Gregg List, part-owner of The Bar, came forward requesting approval and, stated this is the 10th time they have had an SDL permit,

Chief Tom Casady, Lincoln Police Department, came forward to inform the Council that The Bar has recently had an increase in the number of intoxicated people being admitted to Cornhusker Place, the local detox facility, who claim they had their last drink at The Bar. This will be monitored during the Spring game and asked that the establishment make sure that the people are not served so much alcohol that they are intoxicated. The number of admissions in the first six months of the Fiscal Year beginning September 1 has been 29 compared to 22 in all of the previous year. Coming into the warm weather months The Bar expands to the beer garden so the risk may increase.

Mr. List commented that referring to the report when asked where did you have your last drink and they say "the bar", he feels they don't specifically mean The Bar at 17th and P, it may be a general comment, "the bar". They have not had any liquor violations in the past year. Staff is always informed when they receive information on the last drink data.

Chief Casady commented that the Police Department will continue to watch the numbers throughout the year and if Gregg comes back for another SDL for the football season they will have information to tell whether there is a problem there or not.

This matter was taken under advisement.

APPLICATION OF OLD FEDERAL PLACE LLC DBA GRAND MANSE FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 260 FEET TO THE NORTH OF THE LICENSED PREMISES AT 129 NORTH 10TH STREET ON APRIL 16, 2011 FROM 8:00 A.M. TO 1:00 A.M. - Lisa Froelich, came forward stating this will be the first time they have requested an SDL for the Spring Game, but have been having SDL's for the home football games in the fall for the past two years.

This matter was taken under advisement.

APPOINTING LIBBY RAETZ TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD FOR A THREE-YEAR TERM EXPIRING JANUARY 1, 2014 - Elizabeth (Libby) Raetz, came forward to tell a little bit about herself. She stated she is in a learning mode right now, but is confident she will be able to become versed on the issues concerning energy.

This matter was taken under advisement.

CHANGE OF ZONE NO. 11003 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY ADDING A NEW SECTION NUMBERED 27.03.161 TO PROVIDE A DEFINITION FOR "COMMERCIAL WIND ENERGY CONVERSION SYSTEM/TURBINE (CWECS)"; AMENDING SECTION 27.07.040 TO ALLOW CWECS IN THE AG AGRICULTURE DISTRICT AS A SPECIAL PERMITTED USE AND PROVIDING CONDITIONS OF APPROVAL; AND AMENDING CHAPTER 27.63 OF THE LINCOLN MUNICIPAL CODE BY ADDING A NEW SECTION NUMBERED 27.63.425 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW A CWECS IN THE AG AGRICULTURE DISTRICT - Mike DeKalb, Planning Department, stated that in 2008 the City and County amended the zoning code to make it easier to put up wind energy machines by getting rid of the red tape. They inquired about a location in the County for thirty 400 foot tall machines across the south end of the County. Even though there is a very low threshold of wind it's the grid. There has been some

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discussion of inquiring of locations in the northern part of the county as well. The County Board said they needed to put some provisions in by special permits and review and, also, some standards to address these large machines. The County did adopt this particular legislation on the county side. The Administration felt the City should provide the same level of protection in the three miles of the City of Lincoln which applies only to the AG district. There will be written notification to nearby property owners who are at least one mile from the wind machines in the County and 300' in the City. They also post a sign on the property and do a legal ad as well. It is a private discussion between the manufacturer who wants to lease the land to put these in place and the landowner who is or is not willing to lease the land.

This matter was taken under advisement.

APPROVING AN AMENDMENT TO THE FY 10/11 CIP TO AUTHORIZE AND APPROPRIATE \$852,000.00 IN TIF FUNDS FOR THE WORLD'S FOREMOST BANK PROJECT GENERALLY LOCATED AT 4800 N.W. 1ST STREET IN THE UNIVERSITY OF NEBRASKA TECHNOLOGY PARK;

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF WORLD'S FOREMOST BANK REDEVELOPMENT PROJECT TAX ALLOCATION BONDS, IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$852,000.00 - Wynn Hjermstad, Urban Development, came forward to answer questions.

Lauren Wismer, Gilmore & Bell, 1248 O St., Ste. 710, came forward to state he has provided a new substitute ordinance. At the request of the redeveloper's attorney the definition of bonds has been expanded to include not only instruments that are called bonds, but also notes, certificates of indebtedness, and ventures of other forms of indebtedness. Another change is in terms of disbursing funds which states there is certification by the Director of Public Works which should have been Director of Urban Development. That has been changed in Section 3.2 (b)1. The effective date in Section 6.1 has been amended to provide it is in a manner determined in the Redevelopment Plan and then including and set forth in the Redevelopment Agreement. These are the significant changes in the substitute ordinance.

Tom Huston, Cline Williams Law Firm, 233 S. 13th St., on behalf of World's Foremost Bank, came forward to state the Redevelopment Agreement contemplates that the Redeveloper itself will acquire the note with a projected interest rate of 6%.

This matter was taken under advisement.

AUTHORIZING THE MAYOR TO EXECUTE A MULTI-YEAR CONTRACT PER CITY ORDINANCE WHEN FUNDING APPROPRIATIONS COMES FROM MORE THAN ONE FISCAL YEAR CIP FOR THE 2011 RESIDENTIAL REHABILITATION, CITY PROJECT NO. 540618 - Tom Shafer, Public Works & Utilities Dept./Engineering Services, came forward to state there is a list on the City's website of the areas of town the rehabilitation will cover. This is done every year.

This matter was taken under advisement.

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS FOR THE INTERSECTION OF CODDINGTON AVENUE AND WEST VAN DORN STREET (PROJECT NO. HSIP-5205(1)) - Craig Aldridge, Public Works & Utilities Dept./Engineering Services, came forward to ask the Council to approve a resolution to sign a project agreement between the City and the State of Nebraska. It sets out the project responsibilities and the funding split for a safety project at Coddington and Van Dorn. This project will cost around \$1.8 million with the Federal Highway Administration safety funds paying 90% and the City of Lincoln paying 10%. The Federal Highway Administration and the Nebraska Department of Roads will make the decision on the design, but Public Works can make recommendations.

Chief Casady came forward in support of this project. He stated there are quite a few accidents at this area considering the traffic volume is low to moderate for an arterial roadway. There have been 12 accidents in the past two years of which 8 have been injury accidents sending 22 people to the hospital. Every one of those accidents were a right angle accident. He stated he feels there is no better example of where engineering has made a difference in traffic accidents than the two roundabouts on Sheridan. This has made a huge impact on public safety and the work load of the Police Department.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

AFFIDAVIT OF MAILING FOR BOARD OF EQUALIZATION ON THE NORTH 27TH STREET BUSINESS MAINTENANCE IMPROVEMENT DISTRICT - CLERK presented said report which was placed on file in the Office of the City Clerk.

AFFIDAVIT OF MAILING FOR BOARD OF EQUALIZATION ON THE UNIVERSITY PLACE BUSINESS MAINTENANCE IMPROVEMENT DISTRICT - CLERK presented said report which was placed on file in the Office of the City Clerk.

APPOINTING LIBBY RAETZ TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD FOR A THREE-YEAR TERM EXPIRING JANUARY 1, 2014 - CLERK read the following resolution, introduced by Adam Hornung, moved its adoption:

A-86279 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the appointment of Libby Raetz to the Lincoln Electric System Administrative Board for a three-year term expiring January 1, 2014, is hereby approved.

Introduced by Adam Hornung

Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON MARCH 21, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

PETITIONS & COMMUNICATIONS

PLACED ON FILE IN THE CITY CLERK'S OFFICE:

Administrative Amendment No. 11009 to Special Permit No. 1992A, Edenton Woods Community Unit Plan, approved by the Planning Director on March 22, 2011, requested by Edenton Woods, LLC, to add three lots by changing Lots 13-18, Block 3, previously designated for attached single-family dwellings into Lots 13-21, Block 3 to accommodate attached single-family townhouse dwellings, and to amend the general site notes accordingly, on property generally located at Ashbrook Dr. and Highway 2.

Administrative Amendment No. 11006 to Use Permit No. 80B, University of Nebraska Technology Park, approved by the Planning Director on March 25, 2011, requested by The University of Nebraska Foundation, to revise the lot layout for Block 1 and Block 5, show the vacated Highland Circle, add 40,000 square feet of floor area to the area east of NW. 1st St. and revise the land use table, on property generally located at NW. 1st St. and Highland Blvd.

MISCELLANEOUS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF 1644 STEELE LLC DBA THE BAR FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 87 FEET TO THE WEST OF THE LICENSED PREMISES AT 1644 P STREET ON APRIL 16, 2011, FROM 8:00 A.M. TO 2:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval.

A-86280 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of 1644 Steele LLC dba The Bar for a Special Designated License to cover an area measuring approximately 27 feet by 87 feet to the west of the licensed premises located at 1644 P Street, Lincoln, Nebraska, on April 16, 2011 between the hours of 8:00 a.m. and 2:00 a.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

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1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

Introduced by Jon Camp

Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPLICATION OF OLD FEDERAL PLACE LLC DBA GRAND MANSE FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 260 FEET TO THE NORTH OF THE LICENSED PREMISES AT 129 NORTH 10TH STREET ON APRIL 16, 2011 FROM 8:00 A.M. TO 1:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval.

A-86281 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Old Federal Place LLC dba Grand Manse for a Special Designated License to cover an area measuring approximately 27 feet by 260 feet adjacent to its licensed premises located at 129 North 10th Street, Lincoln, Nebraska, on April 16, 2011 between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. Any food sold shall be provided by a licensed and inspected establishment.

Introduced by Jon Camp

Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ORDINANCE - 2ND READING & RELATED RESOLUTIONS (as required)

CHANGE OF ZONE NO. 11003 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY ADDING A NEW SECTION NUMBERED 27.03.161 TO PROVIDE A DEFINITION FOR "COMMERCIAL WIND ENERGY CONVERSION SYSTEM/TURBINE (CWECS)"; AMENDING SECTION 27.07.040 TO ALLOW CWECS IN THE AG AGRICULTURE DISTRICT AS A SPECIAL PERMITTED USE AND PROVIDING CONDITIONS OF APPROVAL; AND AMENDING CHAPTER 27.63 OF THE LINCOLN MUNICIPAL CODE BY ADDING A NEW SECTION NUMBERED 27.63.425 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW A CWECS IN THE AG AGRICULTURE DISTRICT - CLERK read an ordinance, introduced by Adam Hornung, amending Title 27 of the Lincoln Municipal Code relating to Zoning by adding a new section numbered 27.03.161 to provide a definition for "Commercial Wind Energy Conversion System/Turbine (CWECS)"; amending Section 27.07.040 to allow CWECS in the AG Agriculture District as a special permitted use and providing conditions of approval; amending Chapter 27.63 of the Lincoln Municipal Code by adding a new section numbered 27.63.425 to provide conditions for granting a special permit to allow a CWECS in the AG Agriculture District, and repealing Section 27.07.040 of the Lincoln Municipal Code as hitherto existing, the second time.

APPROVING A CONTRACT BETWEEN THE CITY AND LINCOLN HAYMARKET DEVELOPMENT CORP. TO OPERATE AND REGULATE A SATURDAY PUBLIC MARKET IN THE HAYMARKET AREA, 7TH STREET FROM P TO Q STREETS AND P STREET FROM 7TH TO 8TH STREETS FROM MAY 7, 2011 THROUGH OCTOBER 15, 2011 AND ON 8TH STREET FROM P TO Q STREETS FROM JUNE 4, 2011 THROUGH AUGUST 27, 2011 AND ALSO SEPTEMBER 3, 2011 AND SEPTEMBER 24, 2011 - CLERK read an ordinance, introduced by Adam Hornung, accepting and approving the Contract between the City of Lincoln, Nebraska, a municipal corporation, and the Lincoln Haymarket Development Corporation for establishment and regulation of a Saturday public market in the Haymarket area, 7th Street from P to Q Streets and P Street from 7th to 8th Streets, from May 7, 2011 through October 15, 2011, and on 8th Street from P to Q Street from June 4, 2011 through August 27, 2011, and September 3, 2011 and September 24, 2011, and authorizing the Mayor to sign such Contract on behalf of the City, the second time.

APPROVING AN AMENDMENT TO THE FY 10/11 CIP TO AUTHORIZE AND APPROPRIATE \$852,000.00 IN TIF FUNDS FOR THE WORLD'S FOREMOST BANK PROJECT GENERALLY LOCATED AT 4800 N.W. 1ST STREET IN THE UNIVERSITY OF NEBRASKA TECHNOLOGY PARK. (RELATED ITEMS: 11R-74, 11-33) (ACTION DATE: 4/11/11)

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF WORLD'S FOREMOST BANK REDEVELOPMENT PROJECT TAX ALLOCATION BONDS, IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$852,000.00. (RELATED ITEMS: 11R-74, 11-33) (ACTION DATE: 4/11/11) - CLERK read an ordinance, introduced by Adam Hornung, authorizing and providing for the issuance of City of Lincoln, Nebraska Tax Allocation Bonds, in one or more taxable or tax-exempt series, in an aggregate principal amount not to exceed \$852,000 for the purpose of (1) paying the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the City's World's Foremost Bank Redevelopment Project Area, including acquiring any real estate and/or interests in real estate in connection therewith, and (2) paying the costs of issuance thereof; prescribing the form and certain details of the Bonds; pledging certain tax revenue and other revenue to the payment of the principal of and interest on the Bonds as the same become due; limiting payment of the Bonds to such tax revenues; creating and establishing funds and accounts; delegating, authorizing and directing the Finance Director to exercise his independent discretion and judgment in determining and finalizing certain terms and provisions of the Bonds not specified herein; taking other actions and making other covenants and agreements in connection with the foregoing; and related matters, the second time.

PUBLIC HEARING - RESOLUTIONS

AUTHORIZING THE MAYOR TO EXECUTE A MULTI-YEAR CONTRACT PER CITY ORDINANCE WHEN FUNDING APPROPRIATIONS COMES FROM MORE THAN ONE FISCAL YEAR CIP FOR THE 2011 RESIDENTIAL REHABILITATION, CITY PROJECT NO. 540618 - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86282 WHEREAS, the City of Lincoln desires to enter into a contract for 2011 Residential Rehabilitation, City Project No. 540618; and

WHEREAS, said contract will involve the expenditure of money from appropriations of more than one year, and Article VII, Section 3 of the Charter of the City of Lincoln provides that no such expenditure of money of more than one year shall be valid unless approved by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Mayor is authorized to execute a contract between the City and Pavers Inc. for construction of the 2011 Residential Rehabilitation, City Project No. 540618.

The City Clerk is directed to return one fully executed copy of this resolution to Steven Faust, Engineering Services, Public Works & Utilities.

Introduced by Adam Hornung

Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS FOR THE INTERSECTION OF CODDINGTON AVENUE AND WEST VAN DORN STREET (PROJECT NO. HSIP-5205(1)) - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86283 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the use of Federal Highway Safety Improvement Program Funds for the intersection of Coddington Avenue and West Van Dorn Street, Project No. HSIP-5205(1), in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to Craig Aldridge, Engineering Services Division of the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Adam Hornung

Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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ORDINANCE - 1ST READING & RELATED RESOLUTIONS (as required)

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$300,000.00 OF CITY OF LINCOLN, NEBRASKA ROSEWOOD PROJECT TAX ALLOCATION BONDS, SERIES 2011 FOR THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED AT 2301 N.W. 12TH STREET WITHIN THE NORTHWEST CORRIDORS REDEVELOPMENT PLAN - CLERK read an ordinance, introduced by Jayne Snyder, Authorizing the issuance of not to exceed \$300,000.00 of City of Lincoln, Nebraska Rosewood Project Tax Allocation bonds, Series 2011 for the redevelopment of property generally located at 2301 N.W. 12th Street within the Northwest corridors Redevelopment Plan, the first time.

CREATING WATER DISTRICT NO. 1203 IN N.W. 19TH STREET FROM WEST Q STREET TO WEST S STREET AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTY - CLERK read an ordinance, introduced by Jayne Snyder, creating Water District No. 1203, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT FOR NW CORNER OF S. 33RD AND A STREETS BETWEEN MEMBERS OWN CREDIT UNION AND THE CITY OF LINCOLN FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT FOR A RANGE OF COMMERCIAL AND RETAIL USES, TO CONTROL ACCESS TO A STREET AND TO RESTRICT USES, LIGHTING AND SIGNAGE ,ON PROPERTY GENERALLY LOCATED AT S. 33RD AND A STREETS. (RELATED ITEMS: 11R-84, 11-34) (ACTION DATE: 4/18/11).

CHANGE OF ZONE 11006 - APPLICATION OF TUDANS ENPETE PROPERTIES LLC FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE CORNER OF CHAUTAUQUA AVENUE AND A STREET. (RELATED ITEMS: 11R-84, 11-34) (ACTION DATE: 4/18/11) - CLERK read an ordinance, introduced by Jayne Snyder, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

CHANGE OF ZONE 11007 - AMENDING CHAPTER 27.80 OF THE LINCOLN MUNICIPAL CODE RELATING TO FEES BY AMENDING SECTION 27.80.010 TO REQUIRE A PERSON REQUESTING A ZONING ACTION CONFIRMATION LETTER UNDER TITLE 27 OF THE LINCOLN MUNICIPAL CODE TO PAY AN APPROPRIATE FEE THEREFOR AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. (RELATED ITEMS: 11-35, 11R-83) (ACTION DATE: 4/18/11) - CLERK read an ordinance, introduced by Jayne Snyder, amending Chapter 27.80 of the Lincoln Municipal Code relating to fees by amending Section 27.80.010 to require a person requesting a zoning action confirmation letter under Title 27 of the Lincoln Municipal Code to pay an appropriate fee therefor as established by resolution of the City Council, the first time.

ESTABLISHING AN APPROPRIATE FEE FOR ZONING ACTION CONFIRMATION LETTERS ISSUED BY THE PLANNING DEPARTMENT PURSUANT TO LINCOLN MUNICIPAL CODE SECTION 27.80.010. (RELATED ITEMS: 11-35, 11R-83) (ACTION DATE: 4/18/11).

COMP. PLAN CONFORMANCE 11004 - DECLARING APPROXIMATELY 27,751 SQ. FT. OF PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH 8TH AND U STREETS AND APPROXIMATELY 2,979 SQUARE FEET OF PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 7TH AND T STREETS AS SURPLUS PROPERTY - CLERK read an ordinance, introduced by Jayne Snyder, declaring approximately 30,730 square feet of City owned property generally located north of 8th and S Streets as surplus, the first time.

VACATION 11002 - VACATING (1) A PORTION OF STADIUM DRIVE AT 10TH STREET; (2) A PORTION OF NORTH 10TH STREET SOUTH OF SALT CREEK ROADWAY; AND (3) AN UN-NAMED RIGHT-OF-WAY WEST OF NORTH 10TH STREET NORTH OF BLOCK 14, NORTH LINCOLN ADDITION; TO ACCOMMODATE THE CONSTRUCTION OF THE NEW ROADWAY AND ROUND-ABOUT ASSOCIATED WITH THE WEST HAYMARKET REDEVELOPMENT PROJECT - CLERK read an ordinance, introduced by Jayne Snyder, vacating (1) a portion of Stadium Drive at 10th Street; (2) a portion of North 10th Street south of Salt Creek Roadway; and (3) an un-named right-of-way west of North 10th Street north of Block 14, North Lincoln Addition; and retaining title thereto in the City of Lincoln, Lancaster County Nebraska, the first time.

AMENDING CHAPTER 10.32 OF THE LINCOLN MUNICIPAL CODE RELATING TO STOPPING, STANDING AND PARKING OF VEHICLES BY ADDING A NEW SECTION NUMBERED 10.32.075 TO PROHIBIT THE PARKING OF TRUCKS ON A STREET MORE THAN 400 FEET FROM THE PRIMARY PLACE OF BUSINESS AND PROVIDING CERTAIN EXCEPTIONS - CLERK read an ordinance, introduced by Jayne Snyder, amending Chapter 10.32 of the Lincoln Municipal Code relating Stopping Standing and Parking of Vehicles by adding a new section numbered 10.32.075 to prohibit the parking of trucks on a street more than 400 feet from the primary place of business and providing certain exceptions, the first time.

ORDINANCES - 3RD READING & RELATED RESOLUTIONS (as required)

CREATING RE-PAVING DISTRICT NO. 157 FOR NEW STREET PAVEMENT IN 63RD STREET FROM GLADSTONE STREET TO FREMONT STREET AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES - CLERK read an ordinance, introduced by Doug Emery, creating Re-paving District No. 157, defining the limits thereof, establishing the width of the roadway to be re-paved and new curb, providing for the payment of the cost thereof, designating the property to be benefitted, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the third time.

EMERY Moved to pass the ordinance as read.

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

The ordinance, being numbered **#19513**, is recorded in Ordinance Book #25, Page

APPROVING THE LEASE AGREEMENT BETWEEN THE CITY AND DITTMER & DITTMER OF CRETE FOR THE LEASE OF OFFICE SPACE BY AGING PARTNERS FOR ITS PERSONAL & FAMILY SERVICES PROGRAM AT 1005 E. HIGHWAY 33, SUITE 6, CRETE, NE 68333 FOR A TERM OF JUNE 1, 2011 THROUGH MAY 31, 2012 - CLERK read an ordinance, introduced by Doug Emery, accepting and approving a Lease Agreement between the City of Lincoln and Dittmer & Dittmer of Crete for the lease of office space by the Aging Partners for its Aging Partners Personal & Family Services program located at 1005 E. Highway 33, Suite 6, Crete, NE 68333, for a term of June 1, 2011 through May 31, 2012, the third time.

EMERY Moved to pass the ordinance as read.

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

The ordinance, being numbered **#19514**, is recorded in Ordinance Book #25, Page .

CHANGE OF ZONE NO. 11005 - APPLICATION OF PARK RIDGE APARTMENTS TOO, LLC, FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT S.W. 8TH STREET AND WEST C STREET - CLERK read an ordinance, introduced by Doug Emery, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

EMERY Moved to pass the ordinance as read.

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

The ordinance, being numbered **#19515**, is recorded in Ordinance Book #25, Page .

RESOLUTIONS - ACTION ONLY

SPECIAL PERMIT 10037 - APPEAL OF EMERALD CARE COMPANY FROM THE CONDITIONAL APPROVAL ALLOWING A DOMICILIARY CARE FACILITY FOR UP TO 48 RESIDENTS ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF SOUTH 84TH STREET AND PIONEERS BOULEVARD. (3/21/11 - ACTION DELAYED 1 WK. TO 3/28/11) - PRIOR to reading:

CAMP Moved Motion to Amend #2 to Bill No. 11R-61 in the following manner:

1. On page 2, lines 21 through 23, delete the language in subparagraph iv. and insert in lieu thereof the following: iv. Revise the site plan, as attached, to provide a wider driveway in a design approved by the Public Works & Utilities Department.
2. On page 2, lines 26 through 28, delete all of subparagraph 2.b.
3. On page 2, line 29, change the number of condition 2.c. to 2.b.

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CAMP Moved Motion to Amend #3 to Bill No. 11R-61 as follows:

1. On page 2, lines 12 through 15, delete all of subparagraph i. and re-number the subsequent subparagraphs under condition 2.a. accordingly.
2. On page 2, after line 30, insert a new paragraph d. to read as

follows:

d. Permittee shall request to construct a 6" water main to connect the project to the water distribution system by Executive Order in a manner approved by the Public Works Department. Permittee shall be responsible for the design of the water main. The City of Lincoln shall acquire all temporary and permanent necessary easements for construction and maintenance of the water line by negotiation if possible, and eminent domain if necessary. Permittee's share of the cost of such water main, including costs incurred in design, shall not exceed \$40/linear foot of frontage on 84th Street (426' frontage x \$40 = \$17,040). Public Works shall reimburse Permittee for all costs in excess of \$17,040 upon completion and acceptance of the work. Public Works shall make progress payments to the contractor during construction to avoid Permittee having to finance the project for the City. Public Works will use its best efforts to complete review of the design, approve the Executive Order and acquire the necessary easements on a timely basis to allow completion of the water main by May 1, 2012.

HORNUNG Moved to amend Motion to Amend #3 by inserting as the next to last sentence the following new language: Public Works shall make progress payments to the contractor during construction to avoid Permittee having to finance the project for the City.

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Final vote on Motion to Amend #3 as Amended: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption for approval.

A-86284 WHEREAS, Emerald Care Company has submitted an application designated as Special Permit No. 10037 for authority to construct a domiciliary care facility for up to 48 residents on property generally located southwest of the intersection of South 84th Street and Pioneers Blvd., and legally described as:

Lots 2 and 3, Block 1, except the east 17 feet and except the west 72.2 feet, Mar-Ma-Ra-Lo Heights Addition to Lincoln, Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on said application and adopted Resolution No. PC-01222 conditionally approving the same; and

WHEREAS, Emerald Care Company has filed a Notice of Appeal appealing the action of the Planning Commission conditionally approving Special Permit No. 10037; and

WHEREAS, Emerald Care Company specifically appeals from the imposition of conditions 2.a.iv. and 2.b of Resolution No. PC-01222 prior to receiving building permits; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this domiciliary care facility will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Leo Bader, hereinafter referred to as "Permittee", to develop a domiciliary care facility for up to 48 residents be and the same is hereby granted under the provisions of Section 27.63.530 of the Lincoln Municipal Code upon condition that construction of said domiciliary care facility be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a domiciliary care facility for a maximum of 48 residents.

2. Before receiving building permits:

a. The Permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final site plan including five copies showing the following revisions:

~~i. Add a general note that states, "This facility to be served by City water and sewer service, and any septic system on the site shall be abandoned per the requirements of the Health Department."~~

- ~~i.~~ ~~ii.~~ Revise the general note regarding signs to state,
"Signs will comply with LMC Chapter 27.69 and need not
be shown on this plan."
 - ~~ii.~~ ~~iii.~~ Revise the site plan to show water service from the
existing fire hydrant line with well service backup.
 - ~~iii.~~ ~~iv.~~ ~~Revise the site plan to show a right turn lane in
South 84th Street and which maintains a six foot
separation between the sidewalk and the turn lane.
Revise the site plan, as attached, to provide a wider
driveway in a design approved by the Public Works &
Utilities Department.~~
 - ~~iv.~~ ~~v.~~ A grading and drainage plan approved by Public Works &
Utilities prior to building permits.
 - ~~b.~~ ~~The required right of way (and easement if necessary)
dedication to accommodate Condition 2.a.iv to be accepted by
the City and recorded prior to building permits.~~
 - b. e. The construction plans must substantially comply with the
approved plans.
 - d. Permittee shall request to construct a 6" water main to
connect the project to the water distribution system by
Executive Order in a manner approved by the Public Works
Department. Permittee shall be responsible for the design
of the water main. The City of Lincoln shall acquire all
temporary and permanent necessary easements for construction
and maintenance of the water line by negotiation if
possible, and eminent domain if necessary. Permittee's
share of the cost of such water main, including costs
incurred in design, shall not exceed \$40/linear foot of
frontage on 84th Street (426' frontage x \$40 = \$17.040).
Public Works shall reimburse Permittee for all costs in
excess of \$17.040 upon completion and acceptance of the
work. Public Works shall make progress payments to the
contractor during construction to avoid Permittee having to
finance the project for the City. Public Works will use
its best efforts to complete review of the design, approve
the Executive Order and acquire the necessary easements on a
timely basis to allow completion of the water main by May 1,
2012.
3. This facility shall be licensed to comply with all state
requirements for domiciliary and/or residential care facilities.
4. Before occupying the building or starting the operation all
development and construction must substantially comply with the approved plans.
5. All privately-owned improvements, including screening, must be
permanently maintained by the Permittee.
6. The physical location of all setbacks and yards, buildings, parking
and circulation elements, and similar matters must be in substantial compliance
with the location of said items as shown on the approved site plan.
7. The terms, conditions, and requirements of this resolution shall
run with the land and be binding and obligatory upon the Permittee and the
Permittee's successors and assigns.
8. The Permittee shall sign and return the City's letter of acceptance
to the City Clerk within 60 days following approval of the special permit,
provided, however, said 60-day period may be extended up to six months by
administrative amendment. The City Clerk shall file a copy of the resolution
approving the special permit and the letter of acceptance with the Register of
Deeds, filing fees therefor to be paid in advance by the Permittee.
- Introduced by Jonathan Cook
- Seconded by Emery & carried by the following vote: AYES: Camp,
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

OPEN MICROPHONE - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to April 11, 2011.
 Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll,
Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on April 11,
2011.
 Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll,
Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 3:44 P.M.

CAMP Moved to adjourn the City Council meeting of April 4, 2011.
 Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll,
Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Teresa J. Meier, Deputy City Clerk

Judy Roscoe, Senior Office Assistant